

REMARKS

Claims 31, 32, 34-43, 45-51, and 55-60 remain pending in the instant application. All claims presently stand rejected. Claims 31, 35-37, 39-43, 45-48, 51, 56-60 are amended herein. Claims 33 and 44 are hereby cancelled without prejudice. Entry of this amendment and reconsideration of the pending claims are respectfully requested.

Claim Rejections – 35 U.S.C. § 103

All claims stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,366,592 B1 to Flanders in view of U.S. Patent No. 5,418,800 to Prior et al. (hereinafter “Prior”).

“To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. All words in a claim must be considered in judging the patentability of that claim against the prior art.” M.P.E.P. § 2143.03.

Independent claim 43 now recites, in pertinent part,

a control system operatively coupled to the voltage sensor and to the optical element, the control system **to dither an operating setting of the optical element about a nominal value of the operating setting** to induce the wavelength dither, **the control system further to adjust the nominal value of the operating setting in response to the voltage change modulation to tune the optical element.**

Accordingly, claim 43 recites a control system to dither and tune **the same** optical element. Applicants respectfully submit that the combination of Flanders and Prior fails to disclose, teach, or fairly suggest dithering and tuning a single optical element.

In fact, FIG. 10 of Flanders discloses a wavelength controller 354 including a filter driver 714 to control a tunable filter 410 and a length modulator driver 716 to control a cavity length modulator 412. However, Flanders fails to teach or suggest both dithering and tuning tunable filter 410 or both dithering and tuning cavity length modulator 412. Thus, embodiments of the present invention advantageously accomplish both dithering and tuning with a single optical element, as opposed to modulating with one element and tuning with another, as disclosed in Flanders. Applicants further note that Prior fails to disclose, teach, or fairly suggest dithering and tuning as claimed above.

Additionally, as recited in dependent claim 46 a plurality of optical elements may each individually be dithered and tuned. Thus, dithering and tuning each optical element enables each optical element to be tuned in isolation of other optical elements. In contrast, Flanders discloses using two elements to tune a single tunable filter.

Consequently, the combination of Flanders and Prior fails to teach or suggest all elements of independent claim 43, as required under M.P.E.P. § 2143.03. Independent claims 31 and 56 each include similar nonobvious elements as independent claim 43. Accordingly, Applicants request that the instant §103(a) rejections of claims 31, 43, and 56 be withdrawn.

Dependent claims 32, 34-42, 45-51, 55, and 57-60 are nonobvious over the prior art of record for at least the same reasons as discussed above in connection with their respective independent claims, in addition to adding further limitations of their own. Accordingly, Applicants respectfully request that the instant § 103 rejections for claims 32, 34-42, 45-51, 55, and 57-60 be withdrawn.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants believe the applicable rejections have been overcome and all claims remaining in the application are presently in condition for allowance. Accordingly, favorable consideration and a Notice of Allowance are earnestly solicited. The Examiner is invited to telephone the undersigned representative if the Examiner believes that an interview might be useful for any reason.

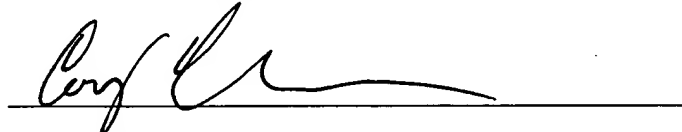
CHARGE DEPOSIT ACCOUNT

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a). Any fees required therefore are hereby authorized to be charged to Deposit Account No. 02-2666. Please credit any overpayment to the same deposit account.

Respectfully submitted,

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

Date: April 16, 2004



Cory G. Claassen

Reg. No. 50,296

Phone: (206) 292-8600